

AMENDED IN ASSEMBLY AUGUST 10, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE MAY 17, 2006

AMENDED IN SENATE APRIL 4, 2006

SENATE BILL

No. 1360

Introduced by Senator Kehoe
(Coauthor: Assembly Member Lieu)

February 21, 2006

An act to amend Section 27255 of the Government Code, and to add Article 3 (commencing with Section 5096.520) to Chapter 1.695 of Division 5 of the Public Resources Code, relating to resource conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1360, as amended, Kehoe. County records: conservation easement registry.

(1) Existing law requires the county recorder in each county to develop and maintain, within the existing indexing system, a comprehensive index of conservation easements on land in that county. Existing law also requires the county recorder, with respect to conservation easements affecting property within the county, recorded on or after January 1, 2002, to include the conservation easement in the index, if the document is properly labeled, or if a Notice of Conservation Easement is also recorded. Existing law authorizes specified parties to conservation easements to fill out and record a Notice of Conservation Easement for conservation easements recorded prior to January 1, 2002. The Notice of Conservation Easement states that no fee is required for recording the document

pursuant to a provision exempting state and local officials from such fees.

This bill would delete from the Notice of Conservation Easement ~~that the~~ statement that no fee is required by that provision. ~~The bill would require the county recorder to send a copy of the notice, within 30 days of its recording, to the Secretary of the Resources Agency. By imposing a new duty on county recorders, the bill would create a state-mandated local program.~~

~~Existing law requires the standard fee charged by the county recorder for recording the conservation easement document to include funds to cover the costs associated with indexing the document.~~

~~This bill instead would authorize the county recorder to include in that fee, funds to cover the costs associated with indexing the document and forwarding a copy of the Notice of Conservation Easement to the Secretary of the Resources Agency.~~

(2) Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law specifies certain requirements and procedures for the acquisition of conservation lands.

This bill would require the Secretary of the Resources Agency to establish a central public registry of all conservation easements, as defined, ~~all open-space easements, including, but not limited to, those easements held or required by the state, or purchased on or after January 1, 2000, with state grant funds provided by any agency, department, or division of the state on or after January 1, 2006.~~ The bill would provide that the registry shall be available for use by the general public, on or before January 1, 2009. The bill would require the registry to include, and the secretary to provide on the Internet, information on these conservation easements, as specified.

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Conservation easements, *open-space easements*, and agricultural conservation easements are a valuable tool and a cost-effective way to protect the state's natural resources.

(b) It is important to ensure that the public has information on how moneys are spent by state agencies when purchasing easements for the preservation and protection of critically needed conservation and agricultural lands.

(c) Information regarding easements should be disseminated in a readily and easily available manner.

(d) A central public registry of conservation easements, open-space easements, and agricultural conservation easements would provide information that would lead to better conservation and resource planning among state agencies, local governments, nonprofit organizations, and the public.

SEC. 2. Section 27255 of the Government Code is amended to read:

27255. (a) The county recorder in each county shall develop and maintain, within the existing indexing system, a comprehensive index of conservation easements and Notice of Conservation Easement on land within that county. The conservation easement index developed and maintained pursuant to this subdivision shall include all conservation easements recorded on and after January 1, 2002.

(b) For the purposes of this section, "conservation easement" means any limitation in a recorded instrument that contains an easement, restriction, covenant, condition, or offer to dedicate, which is or has been executed by or on behalf of the owner of the land subject to that limitation and is binding upon successive owners of the land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition. "Conservation easement" includes a conservation easement as defined in Section 815.1 of the Civil Code, an open-space easement as defined in Section 51075 of this code, and an agricultural conservation easement as defined in Section 10211 of the Public Resources Code.

(c) On and after January 1, 2002, when a county recorder records a new conservation easement affecting property within the county, he or she shall include the easement in the index developed and maintained pursuant to subdivision (a), if the document containing the easement is entitled “Conservation Easement,” or the following document is properly filled out by the submitter, and recorded at the same time, or at a later date:

Recording Requested by and
When Recorded Return to:

NOTICE OF CONSERVATION EASEMENT
<p>The undersigned hereby gives notice that a Conservation Easement was recorded in the _____ County Recorder’s Office on _____ and recorded as Document Number _____.</p> <p>The grantors and grantees of the conservation easement were</p> <p>Grantors _____</p> <p>Grantees _____</p> <p><input type="checkbox"/> Mark here, if state funds were used in the purchase of the easement, the state was a party to the purchase, or the state holds an interest in the property.</p> <p>I declare under penalty of perjury that the above statement is true and correct.</p> <p>Signed _____</p> <p>Dated _____</p> <p>The recorder shall forward a copy of this notice, within 30 days of its recording, to the Secretary of the Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento, CA 95814.</p> <p>THIS NOTICE IS FOR INDEXING PURPOSES ONLY AND DOES NOT, BY ITSELF, CONSTITUTE A CONSERVATION EASEMENT</p>

(d) In order to include conservation easements recorded prior to January 1, 2002, the comprehensive index of conservation

easements and “Notice of Conservation Easement” developed and maintained pursuant to subdivision (a), any parties to conservation easements, including, but not limited to, the counties, cities, recreation and park districts or agencies, state conservancies, state agencies, the California Coastal Commission, land trusts, and nonprofit organizations may fill out and record a Notice of Conservation Easement pursuant to subdivision (c) for each previously recorded conservation easement, in the county in which the affected real property is located.

(e) Pursuant to Section 27361, the standard fee charged by the county recorder for recording the conservation easement document ~~may~~ *shall* include funds to cover the costs associated with ~~indexing the document and forwarding a copy of the Notice of Conservation Easement to the Secretary of the Resources Agency as required in the notice.~~ *indexing the document.*

(f) It is the intent of the Legislature that nothing in this section shall be construed to require a county recorder to develop and maintain an index separate from the existing indexing system, and that the conservation easement index be established by using existing resources.

SEC. 3. Article 3 (commencing with Section 5096.520) is added to Chapter 1.695 of Division 5 of the Public Resources Code, to read:

Article 3. Conservation Easement Registry

5096.520. (a) The Secretary of the Resources Agency shall establish a central public registry of all conservation easements; ~~including, but not limited to, those held or required by the state, or purchased on or after January 1, 2000,~~ with state grant funds provided by any agency, department, or division of the state *on or after January 1, 2006*. In constructing the registry, the Resources Agency shall draw upon ~~the comprehensive index of conservation easements and notices of conservation easement provided by county recorders pursuant to Section 27255 of the Government Code, the Department of the Department of General Services’ property inventory, and other information held by a state agency, department, or division~~ *division, or other sources.*

(b) For the purposes of this section, “conservation easement” means any limitation in a recorded instrument that contains an easement, restriction, covenant, condition, or offer to dedicate, that has been executed by or on behalf of the owner of the land subject to that limitation and is binding upon successive owners of the land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition. “Conservation easement” includes a conservation easement as defined in Section 815.1 of the Civil Code, an open-space easement as defined in Section 51075 of the Government Code, and an agricultural conservation easement as defined in Section 10211.

~~(e) For a conservation easement held or required by the state or purchased on or after January 1, 2000, with state funds provided by any agency, department, or division of the state, the registry shall include all of the following information on each conservation easement listed in the registry:~~

(c) The registry shall only include the following information on each conservation easement listed in the registry:

- (1) The recordation number assigned by the county recorder.
- (2) The purpose of the easement.
- (3) The location of the easement, identified by county and nearest city.
- (4) The identity of the easement holder.
- (5) The size of the easement in acres.
- ~~(6) The amount in dollars, if any, of the state’s contribution towards the easement transaction.~~

~~(7)~~

~~(6) The date the easement transaction was completed recorded.~~

~~(8) A copy of the easement.~~

~~(d) For all conservation easements not described in subdivision (c), the registry shall include, for each conservation easement listed in the registry, a copy of the Notice of Conservation Easement provided by a county recorder pursuant to Section 27255 of the Government Code.~~

(d) An agency, department, or division of the state with conservation easements that are held or required by the state or purchased with state grant funds shall enter and keep current the

1 *information specified in subdivision (c) for those easements in*
2 *the registry established pursuant to this section.*

3 (e) On or before January 1, 2009, the Secretary of the
4 Resources Agency shall make the registry available for use by
5 the general public. ~~Information~~ *Only the information* pertaining
6 to paragraphs ~~(1)~~ (2) to ~~(7)~~ (6), inclusive, of subdivision (c) shall
7 be provided by the Secretary of the Resources Agency on the
8 Internet. *No personal identifying information shall be posted on*
9 *the Internet.* The registry shall be updated biennially.

10 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
11 ~~Section 6 of Article XIII B of the California Constitution because~~
12 ~~a local agency or school district has the authority to levy service~~
13 ~~charges, fees, or assessments sufficient to pay for the program or~~
14 ~~level of service mandated by this act, within the meaning of~~
15 ~~Section 17556 of the Government Code.~~